

Hotel operators incur Hotel Operators' Occupation Tax liability on receipts from room rentals to governmental bodies. 86 Ill. Adm. Code 480.101(b)(3). (This is a GIL.)

March 15, 2001

Dear Xxxxx:

This letter is in response to your letter dated January 23, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See, 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Please find attached a copy of a 'Tax Exemption Notice' for ORGANIZATION which was faxed to us by their representative REPRESENTATIVE.

ORGANIZATION has been our client since prior to 1995 and they have since been paying the State and Local Hotel Taxes. Recently however, on 1/12/01, REPRESENTATIVE called to claim that ORGANIZATION is exempted from paying both the Illinois Hotel Operator's Occupation Tax and the local Chicago Hotel Accommodations tax. Furthermore, REPRESENTATIVE & ORGANIZATION are now looking for a refund of all hotel taxes that they have 'inadvertently' paid since they started staying with us.

Kindly give us your official ruling on this issue with regards to our Hotels and this tax exemption claim for the employees of ORGANIZATION, who stay with us for less than 30 days. Also, REPRESENTATIVE is claiming tax exempt status for all distressed train passengers whose hotel room charges are paid for by ORGANIZATION, even if they are not ORGANIZATION employees. Any guidance or direction you can give us on this matter will be much appreciated.

Thank you for your assistance and cooperation.

The Hotel Operators' Occupation Tax imposes a tax upon persons engaged in the business of leasing, renting or letting rooms in a hotel in Illinois. See, 86 Ill. Adm. Code 480.101. It applies to gross receipts received from a person who occupies a room or becomes irrevocably liable to pay rent for the right to occupy a specific room or rooms. The only exemptions available to an operator are for rentals to permanent residents and to certain diplomatic personnel. It is not a tax upon persons occupying the rooms, but rather, on the hotel operator.

As indicated at 86 Ill. Adm. Code 480.101(b)(3), enclosed, a hotel operator incurs Hotel Operators' Occupation Tax liability even when a room is rented to an entity or organization that the Department recognizes as exempt from sales taxes. These organizations are not similarly exempt when renting a hotel or motel room.

Hotel operators have the authority to reimburse themselves for their tax liability by collecting corresponding charges from hotel guests. Although it may be referred to as a “tax,” it is actually a “pass-on” or reimbursement charge. There is no hotel tax being imposed on ORGANIZATION from which it can be exempted. Whether a hotel guest pays this reimbursement is a matter between the guest and hotel operator. Nevertheless, the hotel operator remains liable for the tax even if the guest refuses to pay the reimbursement.

We cannot agree with your interpretation of Public Law 97-257. That legislation exempts ORGANIZATION or a rail carrier subsidiary of ORGANIZATION from a tax or fee imposed upon it by a State taxing authority. As explained above, the Illinois Hotel Operators’ Occupation Tax is not a tax imposed upon ORGANIZATION or a rail carrier subsidiary of ORGANIZATION, but rather, upon the hotel operator. Therefore, P.L. 97-257 is inapplicable under these circumstances.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department’s Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Shane McCreery

By:

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